

Exhibit USAbt-O

Concord, NH

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X

In Re: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE LITIGATION) Master File No.
-----) 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:)
United States of America ex rel.) Hon. Patti B.
Ven-A-Care of the Florida Keys,) Saris
Inc., et al. v. Dey, Inc., et al.,)
Civil Action No. 05-11084-PBS,) VIDEOTAPED
and United States of America ex) DEPOSITION
rel. Ven-A-Care of the Florida) OF THE NEW
Keys, Inc., et al. v. Boehringer) HAMPSHIRE DEPT.
Ingelheim Corp., et al., Civil) OF HEALTH &
Action No. 07-10248-PBS and United) HUMAN SERVICES
States, ex rel. Ven-A-Care of the) BY LISE C.
Florida Keys v. Abbott) FARRAND
Laboratories, Inc. Civil Action)
Nos. 06-CV-11337 and 07-CV-11618) OCTOBER 28, 2008
-----X

Henderson Legal Services, Inc.

202-220-4158

www.hendersonlegalservices.com

ff2a09d4-6d96-4138-8ac8-bdac97d50764

Concord, NH

Page 251

1 MR. KATZ: Objection, form.

2 THE WITNESS: I see that that's what
3 this says. I don't know that that was ever done
4 by the state.

5 BY MR. HENDERSON:

6 Q. Well, let me ask you. When the --
7 after the date of this, the next time when state
8 of New Hampshire changed its or made changes to
9 its reimbursement methodology was in relation to
10 House Bill 32?

11 A. 1996.

12 Q. Okay. And are you aware of whether or
13 not in determining the dispensing fee whether or
14 not the state of New Hampshire took into account
15 the cost of the drug?

16 MR. KATZ: Objection, form.

17 BY MR. HENDERSON:

18 Q. Was that part of the determination of
19 dispensing fee?

20 A. No, I don't believe so.

21 Q. All right. And conversely, when the
22 state determined what the EAC should be, if you

Concord, NH

Page 252

1 know, did the state base that on the amount of
2 costs of dispensing of the drug?

3 MR. KATZ: Objection, form.

4 THE WITNESS: No.

5 BY MR. HENDERSON:

6 Q. So in that regard, was the state's
7 determination of dispensing fee separate and
8 distinct from its determination of Estimated
9 Acquisition Cost?

10 MR. KATZ: Objection, form.

11 THE WITNESS: Yes.

12 BY MR. HENDERSON:

13 Q. Are you aware of any policy or practice
14 by the state of New Hampshire in the time that
15 you've been working there to base Estimated
16 Acquisition Cost in part on the cost of
17 dispensing the drug?

18 A. No.

19 Q. And similarly, are you aware at any
20 time that the state has based the dispensing fee
21 in part on the costs of acquiring the drug?

22 MR. KATZ: Objection, form.